

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

CANDY M. BALL,)	Case No.: 1:12 CV 2488
)	
Plaintiff)	JUDGE SOLOMON OLIVER, JR.
)	
v.)	
)	
)	
COMMISSIONER OF SOCIAL SECURITY,)	
)	
Defendant)	<u>ORDER</u>

On February 18, 2015, Plaintiff filed an Amended Motion for Attorney Fees Pursuant to 42 U.S.C. Section 406(b) (“Amended Motion”) (ECF No. 26), seeking reduction of the amount requested in Plaintiff’s initial Motion for Attorney Fees Pursuant to 42 U.S.C. Section 406(b) (“Motion”) (ECF No. 24). The court referred these motions to Magistrate Judge Vernelis K. Armstrong. Magistrate Judge Armstrong submitted her Report and Recommendation (“R&R”) on February 27, 2015, recommending that the court deny Plaintiff’s Motion and grant Plaintiff’s Amended Motion. For the following reasons, the court adopts Magistrate Judge Armstrong’s R&R.

On September 11, 2013, the court adopted Magistrate Judge Armstrong’s R&R, finding that Plaintiff was the prevailing party in the previous proceedings and should be awarded \$4,765.15 under the Equal Access to Justice Act (“EAJA”). (Order, ECF No. 23.) Subsequently, Plaintiff filed its Motion requesting \$11,019.00, pursuant to 42 U.S.C. § 406(b), and then filed its Amended Motion reducing this request to \$10,472.00. Defendant Acting Commissioner of Social Security filed a response, stating that it did not object to the Amended Motion and that it believed that the award of \$10,472.00 in attorney’s fees to Plaintiff’s counsel, Clifford M. Farrell, was reasonable.

Defendant also requested, without opposition, that the court order Plaintiff's counsel to remit \$4,765.15 to Plaintiff, the amount of fees previously awarded under the EAJA.

As of the date of this Order, no objection to the R&R has been filed. As stated in the Advisory Committee Notes to Rule 72(b) of the Federal Rules of Civil Procedure: "When no timely objection is filed, the court need only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation." In *Thomas v. Arn*, the Supreme Court stated, "[i]t does not appear that Congress intended to require district court review of a magistrate's factual or legal conclusions, under a *de novo* or any other standard, when neither party objects to those findings." 474 U.S. 140, 150 (1985). Furthermore, by declining to object, the parties have waived the right to appeal the district court's decision adopting the Magistrate Judge's recommendation. *United States v. Walters*, 638 F.2d 947, 950 (6th Cir. 1981); *Arn*, 474 U.S. at 155.

The court, having reviewed Magistrate Judge Armstrong's R&R and finding no clear error, hereby accepts the Magistrate Judge's R&R (ECF No. 28), denying Plaintiff's Motion (ECF No. 24) and granting Plaintiff's Amended Motion (ECF No. 26). In accordance with the R&R, the court hereby approves awarding Plaintiff's counsel, Clifford M. Farrell, \$10,472.00 in attorney fees from past-due benefits owed to Plaintiff and approves that the amount of \$4,765.15 be remitted to Plaintiff.

IT IS SO ORDERED.

/s/ SOLOMON OLIVER, JR.
CHIEF JUDGE
UNITED STATES DISTRICT COURT

October 14, 2015